

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

April 10, 2003

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, April 10, 2003, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Bud Hentzen, Chair; Kerry Coulter, Vice-Chair; Ron Marnell; Elizabeth Bishop; Jerry Michaelis; Jerry McGinty; Morris K. Dunlap {left at 2:40}; Ray Warren; Don Anderson; Frank Garofalo; and James Barfield {left at 3:10}. Bill Johnson; David Wells; and John McKay, Jr., were not present. Staff members present were: Dale Miller, Secretary; Donna Goltry, Assistant Secretary; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Dave Barber, Land Use Supervisor; and Rose Simmering, Recording Secretary.

1. Approval of MAPC meeting minutes of March 20, 2003.

MOTION: That the minutes for March 20, 2003 be approved.

DUNLAP moved, **BISHOP** seconded the motion, and it carried (11-0).

2. Consideration of Subdivision Committee Recommendations

2-1 SUB2002-143 – Revised One-Step Final Plat – MARTIN ESTATES ADDITION, located south of Central and west of 151st Street West.

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. **City Water and Sewer Department** requests a petition for future extension of sanitary sewer services.
- C. The site is currently located within the Rural Water District No. 4. The applicant shall contact this water district to determine the ability of this property being platted to connect to their water line and submit a letter to MAPD and **County Code Enforcement** from the water district to that effect. **The Rural Water District has confirmed that sufficient capacity exists to serve the lots in this plat.**
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. Temporary drainage easements are needed.**
- F. **County Engineering** requests that Martin Estates should not be recorded until after the Prairie Crossing plat has been recorded.
- G. **County Engineering** requests an easement for temporary turnaround be provided on 157th St. at south line of Bundle B.
- H. **County Engineering** requests that the Reece Rd. dedication extend to the south line of Bundle B and a cul-de-sac built in that location. **In the alternative, the applicant proposes an access easement by separate instrument through the Reece Road contingent dedication in order to serve Bundle C. This access easement shall be denoted on the face of the plat. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.**
- I. The road needs to be approved before construction on individual lots.
- J. The street guarantee shall include the installation of a temporary turnarounds at the terminus of Reece Road and Bluegrass as indicated on the plat.
- K. The Applicant shall submit a restrictive covenant tying the lots together within each "bundle". Each building site shall be limited to one dwelling unit until the property is annexed by the City of Wichita and municipal water and sanitary sewer services become available. The covenant shall also restrict the location of structures on this plat to avoid interference with the possible future streets, easements and setbacks and limit future development until submittal of a paving petition.
- L. **GIS** needs to comment on the plat's street names. **157th St West Circle needs to be revised to 157th Cir W.**

- M. Access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) The surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed).
- N. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy and SBC have requested additional easements.
- W. The applicant is reminded that a disk shall be submitted with the final plat racing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MICHAELIS moved, **GAROFALO** seconded the motion, and it carried (11-0).

2-2. SUB2003-20 – One-Step Final Plat – LE' MARIE ADDITION, located on the south side of 23rd Street South and east of 183rd Street West.

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. The applicant needs to contact County Code Enforcement concerning sewer and water requirements.
- B. The applicant shall guarantee the future extension of sanitary sewer and City water to serve the lots being platted.
- C. The site is currently located within the Rural Water District No. 4. The applicant shall contact this water district to determine the ability of this property being platted to connect to their water line and submit a letter to MAPD and County Code Enforcement from the water district to that effect.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. County Engineering needs to comment on the status of the applicant's drainage concept. A drainage plan is

needed. The drainage plan needs to address effect of terraces. A flood study is needed. Minimum pads need to be set for lots 9 through 15, based on flood study.

- F. **County Engineering** needs to comment on the access controls. The plat denotes complete access control to 23rd St. for Lots 1 and 14. **Access control except one opening shall be dedicated for Lot 15. Complete access control is needed along the north 75 feet of the west line of lot 1 and the north 75 feet of the east line of Lot 14.**
- G. **County Engineering** has requested a guarantee for removal of field entrances on Lot 1 & 14.
- H. The applicant shall guarantee the installation of the proposed street to the 36-ft rock suburban street standard.
- I. **County Fire Department/County Engineering** needs to comment on the street length of the proposed cul-de-sac (2,300 feet). Rural cul-de-sacs over 1,200 feet in length must provide a stub street connection or contingent street dedication providing future access to adjoining tracts, or an emergency access easement. **A contingent street dedication is needed between Lots 7 and 8.**
- J. **County Engineering** requests a contingent dedication of street right-of-way between Lots 7 & 8 in order to provide potential street connection to adjoining properties. On the final plat, the contingent dedication of right-of-way needs to be referenced in the plat's text.
- K. The drainage easement between Lots 8 & 9 should be increased to 40 feet.
- L. The applicant is reminded that this site is located within three miles of the City Limits of Wichita and will be heard by City Council. Therefore, the City Council signature block needs to be included on the final plat.
- M. The Applicant is advised that if platted, the building setbacks may be reduced to 30 feet from the interior street.
- N. The Applicant is advised that if platted, the building setback along 23rd South must be 25 feet to conform with the Zoning setback standard for County section line roads.
- O. The applicant needs to assign a name for the new street. **Leo Circle will be the street name.**
- P. The floodway reserve within Lot 15 shall be denoted by a dashed line.
- Q. Per Sedgwick County Fire Department, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) The surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed)
- R. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- S. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- T. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- V. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than one

acre in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.

- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- AA. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **SBC has requested additional easements.**
- BB. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MICHAELIS moved, **GAROFALO** seconded the motion, and it carried (11-0).

2-3. SUB2003-21 – One-Step Final Plat – AUBURN HILLS 14TH ADDITION, located west of 135th Street West, south of Maple.

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. **City Engineering** needs to comment on existing guarantees and the need for any requirements for providing new guarantees. **For the existing improvements City Engineering has requested a respread agreement for special assessments due to the lot reconfiguration. For future improvements City engineering has requested new guarantees.**
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- E. *The applicant shall guarantee the paving of the interior streets.***
- F. Standard gating and signing are required per City Fire Department standards for the emergency access easement
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- I. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- J. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street, drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- K. Detail "A" needs to be included.
- L. Detail "B" needs to be clarified in regards to the connection between Onewood Place and Onewood.
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than one acre in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy advises that any relocation or reconstruction of utilities made necessary by this plat shall be the responsibility of the applicant.**
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MICHAELIS moved, **GAROFALO** seconded the motion, and it carried (11-0).

2-4. SUB2003-23 – One-Step Final Plat – 29th STREET WEST CHURCH ADDITION, located west of Ridge Road, and on the north side of 29th Street North.

- A. Municipal services are available to serve the site. **City Water and Sewer Department advises that the property has not been assessed for the water or sewer main. The applicant will need to pay fees in lieu of assessment**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. On-site detention is needed.**
- D. **Traffic Engineering** needs to comment on the access controls and the need for a minimum separation from N. Topaz Circle. The plat proposes one access opening along 29th Street. **Complete access control is needed along the west 280 feet.**
- E. **Traffic Engineering** has requested a guarantee for a left turn lane contingent upon a Traffic Engineering study.
- F. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- G. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- I. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- O. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- P. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

HENTZEN Item #2-4 is deferred indefinitely.

2-5. SUB2003-24 – One-Step Final Plat – LIBERTY PARK SECOND ADDITION, located on the south side of 13th Street North and the east side of 135th Street West.

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. **City Engineering** needs to comment on existing guarantees and the need for any requirements for providing new guarantees. **New petitions need to be provided.**
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- E. With the Liberty Addition, the applicant has previously guaranteed paving of 13th Street North from Hickory Creek (located to the east) to Forestview including a left turn bay at Forestview. The applicant has also previously guaranteed construction of a left turn bay on 135th Street at 10th St. North.
- F. The Applicant has previously guaranteed the paving of the proposed streets with Liberty Addition. The guarantee has also provided for sidewalks on at least one side of all through, non cul-de-sac streets. **New petitions need to be provided.**
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities. This covenant shall also provide for the Homeowners' Association to maintain the "parking strip" located between this site's north property line and driving surface for 13th St. North.
- H. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- I. For the swimming pool proposed in Reserve C, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. **A 5-ft setback will be platted in Reserve C. The plattors text shall be revised to include swimming pool as a permitted use in Reserve C.**

- J. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- K. **GIS** needs to comment on the plat's street names. **10th N. Ct. needs to be revised to 10th Ct. North.**
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- U. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MICHAELIS moved, **GAROFALO** seconded the motion, and it carried (11-0).

2-6. DED2003-09 – Dedication of Access Control, for property located north of Central, west of Meridian.

CASE NUMBER: DED 2003-09 -- Dedication of Access Control from Bogdon Bonev, for property located north of Central and west of Madison.

OWNER/APPLICANT: Bogdon Bonev, 3744 N. Rushwood Court, Wichita, KS 67226

AGENT: Greg Ferris, Ferris Consulting, P.O. Box 573, Wichita, KS 67201

LEGAL DESCRIPTION: Lots 46-52 (even), Central Avenue, Stites Bros. Second Addition to Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of a conditional use (Case No. CON 2003-01), and is being dedicated for access control, except for one opening, along Central.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MICHAELIS moved, **GAROFALO** seconded the motion, and it carried (11-0).

3-1. VAC2003-05 – Request to Vacate an Alley.

AGENT/APPLICANT: Sedgwick County, c/o Stephanie Knebel

LEGAL DESCRIPTION: That part of the alley as dedicated in Munger's Original Town Addition of Wichita, Sedgwick County, Kansas, that abuts Lots 66 – 84 even and Lots 57 – 73 odd.

LOCATION: Between Market and Main Streets and Pine and Murdock Streets, excluding that portion of the alley that abuts Lots 86 – 96 even and Lots 75 – 83 odd, Munger's Original Town Addition.

REASON FOR REQUEST: Future development of site

CURRENT ZONING: Right-of-way surrounded by "GC" General Commercial on the north, west and & B Multi-family on the east, south-east sides

The applicants are requesting the vacation of the 20-foot alley as described in the legal description for the future development. The applicant has obtained the signatures of the abutting property owners. The MAPC recommended vacation of northern 1/3 of the alley at their 09-21-2000 meeting: VAC2000-00040. If this request is approved for vacation the entire alley between Pine – Murdock – Main – Market will no longer be public ROW. There are utilities in the alley. Lot 86 was dedicated for access to Main as a condition of VAC2000-00040.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities and other interest parties, Planning Staff recommends vacation of the alley as described in the legal description, with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 20, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the alley and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the alley described in the petition should be approved subject to the following conditions:
- (1) There are private & public utilities in the alley; retain the alley as a 20-foot utility easement.
 - (2) If any portion of the alley – easement has a structure encroach into, that portion of the alley – easement encroached on must be vacated.
 - (3) If a structure goes over the sewer in the alley – easement, the applicant must abandon the sewer line, at their own expense as approved by the Public Works Engineer.
 - (4) Any portion of the alley – easement encroached on will be retained as a temporary easement until utilities are relocated.
 - (5) Provide new easements as needed.
 - (6) The applicant shall guarantee the closure of the alley return, or modify the alley to driveway standards
 - (7) All improvements shall be according to City Standards.
 - (8) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) There are private & public utilities in the alley; retain the alley as a 20-foot utility easement.
- (2) If any portion of the alley – easement has a structure encroach into, that portion of the alley – easement encroached on must be vacated.
- (3) If a structure goes over the sewer in the alley – easement, the applicant must abandon the sewer line, at their own expense as approved by the Public Works Engineer.
- (4) Any portion of the alley – easement encroached on will be retained as a temporary easement until utilities are relocated.
- (5) Provide new easements as needed.
- (6) The Applicant shall guarantee the closure of the alley return, or modify the alley to driveway standards.
- (7) All improvements shall be according to City Standards.

- (8) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

LONGNECKER The requests are tied together, so that would be appropriate.

HENTZEN We will wait to approve Item #3-1 until Item #6 is heard.

(Case was reopened for discussion later in the meeting as part of consideration of item #6)

MOTION: To approve, subject to staff comments and citing the findings in their report on item #3-1 and item #6.

MARNELL moved, **MICHAELIS** seconded the motion, and it carried (11-0).

3-2. **VAC2003-06 – Request to Vacate a Portion of a Platted 30-Foot Setback.**

OWNER/APPLICANT: Victoria & John Kindel

LEGAL DESCRIPTION: See exhibit

LOCATION: Generally located on the southeast side of the Pershing – Dellrose section of the roundabout.

REASON FOR REQUEST: Existing garage and proposed garage encroach into the platted setback.

CURRENT ZONING: Subject property and all adjacent properties are zoned SF-5 Single-Family Residential.

The applicant is requesting vacation of a portion of the platted 30-foot setback. An existing attached garage encroaches 10.7-feet at its deepest point into the platted 30-foot setback, putting the garage 19.3-feet from the property line. A proposed attached garage will encroach 14.9-feet at its deepest point into the platted 30-foot setback, putting the proposed garage 15.1-feet from the property line. The UZC allows a 15-foot street side setback for the SF-5 zoning district. The Lincoln Heights Addition was recorded 02-26-1927.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities and other interest parties, Planning Staff recommends vacation of that portion of the platted 30-foot setback as described in the legal description, with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 20, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted 30-foot setback and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted 30-foot setback described in the petition should be approved subject to the following conditions:
- (1) The applicant shall provide a guarantee that the existing drive onto Delrose/English is closed with a continuation of the existing curb. Construction and design of the curbing shall be to City standards and installed at the applicant's expense. All permits and inspections required shall be met.
 - (2) The applicant shall submit a revised site plan showing the existing drive that will be closed and the location and size of the proposed drive into the proposed garage. There will be no more than two (2) drives/curb cuts into the site, the existing one onto Pershing and the proposed drive onto Delrose.
 - (3) The design and materials used on the proposed garage will meet the design and construction standards as stated in the 'Design in the College Hill Neighborhood' guidebook. Materials and design shall match the existing house and garage as well.
 - (4) The encroachment into the platted 30-foot setback will only be as described in the legal description and no more than 10.7-feet at its deepest point for the existing garage and 14.9-feet

- at its deepest point for the proposed garage, this includes roof overhang on the proposed garage.
- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant
 - (6) All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) The applicant shall provide a guarantee that the existing drive onto Delrose/English is closed with a continuation of the existing curb. Construction and design of the curbing shall be to City standards and installed at the applicant's expense. All permits and inspections required shall be met.
- (2) The applicant shall submit a revised site plan showing the existing drive that will be closed and the location and size of the proposed drive into the proposed garage. There will be no more than two (2) drives/curb cuts into the site, the existing one onto Pershing and the proposed drive onto Delrose.
- (3) The design and materials used on the proposed garage will meet the design and construction standards as stated in the 'Design in the College Hill Neighborhood' guidebook. Materials and design shall match the existing house and garage as well.
- (4) The encroachment into the platted 30-foot setback will only be as described in the legal description and no more than 10.7-feet at its deepest point for the existing garage and 14.9-feet at its deepest point for the proposed garage; this includes roof overhang on the proposed garage.
- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (6) All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **MICHAELIS** seconded the motion, and it carried (11-0).

3-3. VAC2003-07 – Request to Vacate a Portion of a Platted Setbacks.

OWNER/APPLICANT: Walmart Properties

AGENT: Robert Kaplan

LEGAL DESCRIPTION: The platted 45-foot building setback line running parallel to the west property line of Lot 1, The Landing 2nd Addition, Wichita, Sedgwick County.

The platted 15-foot building setback line running parallel to the east property line of Lot 2, The Landing 2nd Addition, Wichita, Sedgwick County.

The south 30-feet of the platted 50-foot building setback line running parallel to the north property line of Lot 1, The Landing 2nd Addition, Wichita, Sedgwick County.

A portion of a building setback lines being the north 70-feet of the east 35-feet of Lot 1, The Landing 2nd Addition, Wichita, Sedgwick County.

LOCATION: Generally located northwest of the West Kellogg Drive – Julia interchange, 6110 W Kellogg Drive

REASON FOR REQUEST: The applicant proposes to demolish some existing buildings and to expand off of an existing building for a Super Walmart.

CURRENT ZONING: Subject property and properties to the west and south are zoned GC General Commercial. Property to the east is zoned LC Limited Commercial and GC General Commercial. Property to the north is zoned SF-5 Single Family Residential.

The applicant is proposing to build a super Walmart to replace the current Walmart on the site. This construction will put parts of the proposed super Walmart over platted setbacks. The applicant is requesting vacation of (a) the 15-foot setback located on Lot 2, that runs parallel to the lot line that separates Lots 1 & 2, The Landing 2nd Addition and runs parallel to the north 100-feet of the lot line that separates Lot 2, The Landing 2nd Addition and Lot 1, Air Park 3rd Addition and vacation of (b) the 45-foot setback located on Lot 1, that runs parallel to the lot line that separates Lots 1 & 2, The Landing 2nd Addition. These two setbacks run north – south and will not be replaced.

The applicant is also requesting vacation of (c) the south 30-feet of the platted 50-foot setback line running parallel (west – east) to the north property line of Lot 1, The Landing 2nd Addition, leaving a 20-foot building setback line and requesting vacation of (d) a 70-foot (x) 35-foot sections located on the northeast corner of Lot 1, and extends north to the property line of Lot 1 and 20-feet south into the platted 35-foot setback line that runs parallel to the east property line of Lot 1.

This site has CUP DP-150 overlay on it and the applicant has applied for an adjustment to the CUP. The Landing 2nd Addition was recorded October 17, 1990. Vacation case VAC2002-42 approved the vacation of easements, with conditions, within some of these setbacks, by the MAPC at their 01-23-03 meeting.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities, Planning Staff recommends approval to vacate the portions of platted 15-foot and the 45-foot setback lines as described in the legal description. Staff recommends approval to vacate the south 30-feet of the platted 50-foot setback line, as described in the legal description. Rather than the applicant's request to have no setbacks in the 70-foot (x) 35-foot northeast corner of the site, Staff recommends only that portion of the platted setbacks where the encroachment occurs be vacated, per the site plan and a legal description of it.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 20, 2003 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portions of the platted setbacks and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portions of the platted setbacks described in the petition should be approved subject to the following conditions:

- (1) Vacate the platted 45-foot building setback line running parallel to the west property line of Lot 1, The Landing 2nd Addition, Wichita, Sedgwick County.
- (2) Vacate the platted 15-foot building setback line running parallel to the east property line of Lot 2, The Landing 2nd Addition, Wichita, Sedgwick County.
- (3) Vacate the south 30-feet of the platted 50-foot building setback line running parallel to the north property line of Lot 1, The Landing 2nd Addition, Wichita, Sedgwick County.
- (4) Vacate only that portion of the platted setbacks where the encroachment occurs in northeast corner of the site, per the legal description provided by the applicant.
- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (6) All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted 45-foot building setback line running parallel to the west property line of Lot 1, The Landing 2nd Addition, Wichita, Sedgwick County.
- (2) Vacate the platted 15-foot building setback line running parallel to the east property line of Lot 2, The Landing 2nd Addition, Wichita, Sedgwick County.
- (3) Vacate the south 30-feet of the platted 50-foot building setback line running parallel to the north property line of Lot 1, The Landing 2nd Addition, Wichita, Sedgwick County.
- (4) Vacate only that portion of the platted setbacks where the encroachment occurs in northeast corner of the site, per the legal description provided by the applicant.
- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (6) All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **MICHAELIS** seconded the motion, and it carried (11-0).

4. **Case No.: ZON2002-73** – D & M Enterprises c/o Dennis Niedens (Owner/Applicant) request a zone change from “GC” General Commercial and “SF-5” Single-family Residential to “GC” General Commercial on property described as;

Lot 13, Clarkdale Subdivision. Generally located South of 61st Street South and east of Seneca.

SCOTT KNEBEL, Planning Staff, presented the following staff report:

BACKGROUND: The applicant requests a zone change from “GC” General Commercial and “SF-5” Single-Family Residential to “GC” General Commercial on a 0.94 acre platted tract located south of 61st Street South and east of Seneca. The applicant has not determined a specific use for the subject property other than to state that the rezoning is requested to permit the construction of commercial buildings and that the “GC” General Commercial zoning district was specifically requested to allow for the potential to develop an auto-body shop.

The surrounding area is characterized primarily by suburban residential uses, with a few commercial uses along the Seneca corridor between 55th Street South and 63rd Street South. Most of the properties in the area are zoned “SF-5” Single-Family Residential and are developed with single family residences. Several residentially-developed and vacant properties along Seneca are zoned “GC” General Commercial and “LC” Limited Commercial, including the two vacant lots immediately north of the subject property, which are owned by the applicant. Vehicle repair businesses on property zoned “GC” General Commercial are located one-half block to the south on the west side of Seneca. The other two commercial business in this area are located one-quarter mile to north on the west side of Seneca. These businesses are a nursery and garden center on property zoned “GC” General Commercial and a manufacturing business on property zoned “LI” Limited Industrial.

CASE HISTORY: On March 23, 1958, the zoning for the subject property was first established as “R-1” Suburban Residential (now “SF-20”). At that time, the western third of the subject property was used as a salvage yard and vehicle sales lot in conjunction with the two lots to the north. Upon zoning of the subject property the salvage yard and vehicle sales lot became non-conforming uses.

In 1963, the property owner requested “F” Heavy Industrial (now “GI”) for the western third of the subject property and the two lots to the north in an attempt to make the salvage yard and vehicle sales lot conforming uses. On April 18, 1963, the Board of County Commissioners denied the request for “F” Heavy Industrial and instead approved “C” Commercial (now “GC”) zoning for the western third of the subject property. The decision was made in order to make the vehicle sales lot, but not the salvage yard, a conforming use.

In 1988, Sedgwick County condemned a portion of the subject property and constructed a drainage ditch through the property. The drainage ditch cuts through the portion of the subject property zoned for commercial uses and limits access to the portion of the subject property zoned for residential uses to cross-lot access from the abutting property to the north.

By 1991, the salvage yard had illegally expanded onto the western two-thirds of the subject property, which was still zoned “R-1” Suburban Residential. At that time, the County Zoning Administrator determined that if the western two-thirds of the subject property were to be zoned “C” Commercial that the expansion would be considered a legal expansion of a non-conforming use. Therefore, the property owner requested “C” Commercial zoning for the western two-thirds of the subject property, but the request was denied by the Board of County Commissioners on October 23, 1991 because the Board did not want to legitimize the non-conforming salvage yard.

The salvage operation continued on the subject property as a non-conforming and partially illegal use that received notices of violation due to complaints from neighboring property owners. On May 3, 1999, the subject property was struck by a tornado and damaged to an extent greater than 50% of its value, thus losing its non-conforming use status as a salvage yard. On March 24, 2000, the subject property was annexed into the City of Wichita at which time the zoning of the western two-thirds of the subject property was changed to “SF-6” Single Family (now “SF-5”). The City of Wichita pursued removal of the salvage yard from the property since the use was no longer a legal non-conforming use. The subject property was subsequently cleaned up and sold to the present owner, who has requested “GC” General Commercial zoning to permit unspecified commercial uses on the subject property.

ADJACENT ZONING AND LAND USE:

NORTH:	“GC”	Vacant
SOUTH:	“SF-5”	Single-family
EAST:	“SF-5”	Single-family
WEST:	“SF-5”	Single-family

PUBLIC SERVICES: The subject property has frontage along Seneca, a four-lane arterial street with current traffic volumes of approximately 7,100 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Seneca will increase to approximately 8,700 vehicles per day and recommends that Seneca remain a four-lane arterial street.

Since the use of the subject property has not been identified, planning staff cannot determine the number of trips to be generated by the subject property in the peak hour; however, uses permitted in the requested "GC" General Commercial zoning district have the potential to generate traffic in excess of 500 trips in the peak hour, which would require the applicant prepare a traffic impact study and possibly install traffic improvements prior to developing the property.

Public water and sewer service are not readily available to be extended to the subject property. Therefore, any development of the subject property would likely occur with on-site water and sewer facilities, and commercial development utilizing on-site facilities has a significant potential to lead to ground-water pollution.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Future Development Concept Map in the South Wichita/Haysville Area Plan shows this area as appropriate for "Residential" development. The proposed zoning for the subject property does not conform with either of these land use guides, which recommend that commercial development in this area should be located in compact clusters or nodes at the intersection of two arterial streets. In fact, the South Wichita/Haysville Area Plan was adopted for the express purpose of promoting stabilization and revitalization of the area. The vision of this plan for subject property and the surrounding area is that it would be revitalized with residential uses.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial uses be located adjacent to arterial streets and have site design features that limit noise, lighting, and other aspects of commercial activity from adversely impacting surrounding residential uses. The Commercial Locational Guidelines also recommend that commercial uses locate in compact clusters or nodes versus strip developments and that any commercial uses not located in planned centers or nodes be located on the fringe of the central business district, along Kellogg, or in areas where similar development exists. While the subject property is located along an arterial street, the proposed zoning request would further a strip development pattern, which exists only to a limited extent along Seneca in this area, and does not conform to the Commercial Locational Guidelines.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be DENIED. This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized primarily by suburban residential uses, with only a few commercial uses along the Seneca corridor between 55th Street South and 63rd Street South. Commercial and industrial zoning exists in the area, but the amount of zoning is limited and exists in a strip development pattern contrary to adopted plans and policies for the area. Further strip commercial zoning along Seneca in this area is inconsistent the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "GC" General Commercial and "SF-5" Single-Family Residential. The subject property is suitable for commercial development along Seneca and is suitable for development with residential and permitted institutional uses on the east side of the drainage ditch.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: If residential development of the subject property occurs consistently with the revitalization vision contained in the South Wichita/Haysville area plan, the residential development likely would entail the extension of public water and sewer service to the area and combining the subject property with adjacent tracts to allow for an urban density of development. Changing the zoning of the subject property to "GC" General Commercial zoning would permit uses that are incompatible with residential uses and will make the already daunting task of revitalization even more difficult.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The proposed zoning for the subject property does not conform with adopted plans and policies for the area. Both the Comprehensive Plan and the South Wichita/Haysville Area Plan identify the subject property as appropriate for residential development, rather than the proposed commercial development. Additionally, the Locational Guidelines of the Comprehensive Plan recommend against the type strip commercial development that the proposed rezoning would entail.
5. Impact of the proposed development on community facilities: The requested change would expand commercial land uses to an area lacking appropriate community facilities. On-site water and sanitary sewer service for a commercial business at this location would lead to a significant potential for groundwater pollution, especially since the site is located within an area prone to shallow ground water. The right-of-way width for Seneca is 20 feet less than the standard set by the Subdivision Regulations, which could make any necessary traffic improvements difficult to achieve. The lack of access control along Seneca and the absence of a cross-lot access agreement could make it difficult to establish appropriate access to the subject property.
6. Opposition or support of neighborhood residents: Rezoning of the subject property to permit commercial uses has received consistent opposition from neighborhood residents. The 1991 request for "C" Commercial zoning was protested by five neighboring property owners and was denied by the Board of County Commissioners. At

the time this report was prepared, 13 neighboring property owners had filed protest petitions (see attached) in opposition to request for "GC" General Commercial zoning.

ALTERNATIVE ACTION: In recognition of the difficulties and uncertainties involved with the ambitious revitalization efforts envisioned by the South Wichita/Haysville Area Plan, planning staff has identified an alternative action that may be taken; however, this alternative action is inconsistent with adopted plans and policies for the area and is not recommended by planning staff, who instead support allowing time for the adopted plans and policies to be implemented in this area. The alternative action is to approve "OW" Office Warehouse zoning for the subject property instead of the "GC" General Commercial zoning requested. While such an action would further the strip commercial development of Seneca, it would "step-down" the zoning as it nears residential properties, a practice which is generally recognized as a good planning principle. The alternative action should be subject to replatting the property so that access, traffic improvement, drainage, and utility issues can be addressed. The alternative action can be based on the following alternative findings:

1. The zoning, uses and character of the neighborhood: The subject property is partially zoned for commercial uses and abuts property to the north that is owned by the applicant and also is zoned for commercial uses. While this commercially-zoned property does not currently contain commercial uses, the property has been developed with commercial uses in the past. Future commercial use of the subject property is consistent with the limited pattern of strip commercial development that exists along Seneca in this area.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is somewhat unique in that it is partially zoned for commercial uses, is divided by a drainage ditch, and is presently limited to cross-lot access from the commercially-zoned property to the north. These unique circumstances limit the desirability of the subject property for low-density residential uses. The "OW" Office Warehouse zoning district is intended to accommodate office and warehousing activities for the building trades and similar business that do not require highly visible locations or the type of vehicular access needed for retail and high-intensity office development. The subject property is suitable for the intended purposes of the "OW" Office Warehouse zoning district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on residentially-zoned properties in the area should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the buffer, screening, and street yard requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting these properties. Additionally, the "OW" Office Warehouse zoning district has more stringent development standards in terms of screening, setbacks, and building height than the requested "GC" General Commercial zoning district. The "OW" Office Warehouse zoning district also does not permit auto-oriented and intensive retail uses that are most incompatible with residential uses.
4. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted as long as sufficient right-of-way, access controls, traffic improvements, and utility extensions are provided for through the platting process.

DALE MILLER This is a case you have heard before and the City Council sent it back to us. I just want you to know that you have heard this before and made a recommendation. Scott will go into details of what the issue was.

KNEBEL I don't have a lot to add other than this was sent back to the District Advisory Board. We did provide the letter that is on the front of your packet to the neighbors and the property owners that filed the protest, offering them a opportunity to get more information and to attend some of the meetings, and they did not attend any of the meetings. I don't know if any of them are here today, and I think maybe we should see if anyone is here today and see if it worth doing a full hearing to do a reconsideration, or just take a vote based on what you have had in the record so far.

HENTZEN Did the District Advisory Board change their recommendation?

KNEBEL They made the same recommendation that they did the last time, which was to approve "OW" Office Warehouse.

HENTZEN Anyone here to speak on Item #4? Just the applicant, and he is in agreement with the staff recommendation.

GAROFALO Scott, you said that the D.A.B. approval was for what?

KNEBEL "OW" Office Warehouse zoning.

GAROFALO I don't think that is what our memo says in our packets.

KNEBEL You are right. The DAB memo is incorrect, and we will correct that.

MOTION: Deny "GC" General Commercial and approve the "OW" Office Warehouse subject to replatting within one year.

HENTZEN moved, MCGINTY seconded the motion, and it carried (11-0).

5. **Case No.: CON2003-06** – Jack D. & Audrey E. Hefling (owners); Nextel Communications c/o Michael Reed & Brad Murray Rentals c/o Brad Murray (applicants); AM Consulting, Inc. c/o Kim Edgington (agent) request a Sedgwick County Conditional Use to permit a 300-foot high communication tower on property zoned “RR” Rural Residential on property described as;

A tract of land in the Southeast Quarter of Section 18, Township 25 South, Range 3 West of the 6th P.M., Sedgwick County, Kansas being more particularly described as follows:

Commencing at the Southeast corner of the Section 18, Township 25 South, Range 3 West; thence North along the East line of said Southeast Quarter on an assumed bearing of N 0 degrees 00'00" E, a distance of 1125.56 feet; thence West at a right angle to said East line of said Southeast Quarter, a distance of 224.85 feet to the Point of Beginning; thence N 90 degrees 00'00" W a distance of 100 feet; thence N 00 degrees 00'00" E a distance of 100 feet; thence S 90 degrees 00'00" E a distance of 100 feet; thence S 00 degrees 00'00" W a distance of 100' to the point of beginning. Generally located Southwest of K-96 – 295th Street West intersection, Mt. Hope area of influence

SCOTT KNEBEL, Planning Staff, presented the following staff report:

BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 300-foot high guyed lattice tower (see attached “Site Elevation”) for use by Nextel Communications. The subject property is zoned “RR” Rural Residential and is located approximately ¼ mile south of K-96 on the west side of 295th Street West. Wireless Communication Facilities over 65 feet in height in the “RR” Rural Residential zoning district may be permitted with a Conditional Use.

The subject property is located within the zoning area of influence of the City of Mt. Hope. The Mt. Hope Planning Commission considered this request on March 29, 2003, and recommended that the request be approved subject to the conditions recommended by planning staff.

The applicant indicates (see attached letter dated February 10, 2003 and “Before” and “After” radio frequency analyses) that the proposed wireless communication facility is needed for Nextel Communications to provide wireless communication services to the Mt. Hope area and to provide continuous service along K-96 between Wichita and Hutchinson. The applicant indicates that there are no towers or structures in the area with sufficient height to meet their communication needs.

The character of the surrounding area is rural (see attached “Mt. Hope Tower Site”). All surrounding property is zoned “RR” Rural Residential. The properties to the north were used as “borrow pits” to provide fill dirt for the construction of the nearby K-96 overpass that crosses the Kansas Southwestern Railway. All other properties in the area are used for agriculture. The nearest residence is located approximately 700 feet south of the proposed tower. The owners of this residence have submitted the Conditional Use request for the tower.

The tower is proposed to be located within a 10,000 square foot lease area as shown on the attached “Site Plan.” Access to the site is proposed via a 20-foot wide access easement to 295th Street West. The tower is proposed to be located in the center of the compound with three 240-foot long guy wires anchored to the ground outside the lease area. The lease area is proposed to have an equipment compound with building and/or equipment pads for six telecommunication providers.

The equipment compound is shown as being enclosed by a chain linking fence; however, Section IV-B.3.b.(1) of the Unified Zoning Code requires that the equipment compound be screened since the equipment compound is located less than 150 feet from the abutting residentially-zoned property to the north. The Unified Zoning Code does not authorize the MAPC to waive screening requirements through the approval of a Conditional Use, but it does allow an administrative adjustment to waive the screening requirement when existing vegetation provides a natural screening. Planning staff finds that the existing hedgerow on the east property line provides a natural screen and will approve an administrative adjustment to waive the screening requirement.

Section IV-C.5.b. of the Unified Zoning Code requires a 300-foot setback for the tower from the north property line; however, the tower is proposed to be set back approximately 135 feet from the north property line. The setback requirement can be reduced through approval of the Conditional Use request, and planning staff recommends reducing the setback requirement to 135 feet.

The proposed tower and associated communication frequencies and wattages have been determined by the Federal Aviation Administration (FAA) to pose no hazard to air navigation if the tower is developed according to the conditions stated in the attached “Aeronautical Study.” The FAA conditions require dual lighting of the tower consisting of red lights at night and medium intensity flashing white lights during the day. The FAA regulations pertaining to the dual lighting system are attached. Section III-D.6.g.(5) of the Unified Zoning Code prohibits strobe lighting such as the flashing white lights required by the FAA; however, Section V-D.6. of the Unified Zoning Code allows the Board of County Commissioners to modify Supplementary Use Regulations (such as the strobe lighting prohibition) upon receiving a favorable recommendation from the MAPC. Planning staff recommends that the Board of County Commissioners modify the lighting requirement to comply with the FAA mandate.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Borrow pits
SOUTH:	"RR"	Agriculture
EAST:	"RR"	Agriculture
WEST:	"RR"	Agriculture

PUBLIC SERVICES: No municipally-supplied public services are required. The applicant will extend electrical and phone service to the site. The site has access to 295th Street West, an unpaved township road.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) painting towers red and white instead of using strobe lighting. Since the time the Wireless Communication Master Plan was adopted, the FAA changed their regulations to require day-time strobe lighting; whereas, when the plan was adopted, the FAA allowed painting towers red and white instead of using strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "guyed lattice" design that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall be 300 feet in height and shall be designed and constructed to accommodate communication equipment for at least six wireless service providers.
- E. Prior to the issuance of a building permit, the applicant shall submit an application for and receive approval of a Zoning Adjustment to waive the screening requirement for the outdoor equipment compound.
- F. The tower shall be lighted only with a dual lighting system consisting of red lights at night and medium intensity white flashing lights during the day that conforms with FAA regulations. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- G. Approval of the Conditional Use constitutes a reduction of the Compatibility Height Standard to 135 feet from the north property line for the wireless communication facility.
- H. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
- I. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- J. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is rural. The properties surrounding the subject property in all directions are zoned "RR" Rural Residential and are used for agriculture and borrow pits. The proposed wireless communication facility is consistent with the zoning, uses, and character of the area.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential and is currently used for agriculture. The site is apparently suitable for continued agricultural use. A Conditional Use may be granted to permit a wireless communication facility in the "RR" Rural Residential zoning district; however, the facility should conform to the guidelines of the Wireless Communication Plan as much as possible. The proposed facility conforms to most of the plan's guidelines.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on residentially-zoned properties in the area should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code, which should limit noise, lighting, and other activity from adversely impacting these properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility conforms to the Location Guidelines of the Wireless Communication Master Plan since there are no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. The proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan by minimizing the height, mass, proportion, and silhouette of the facility through its guyed lattice design; by utilizing an unobtrusive color with a matte finish to minimize glare; and by being placed in an area where existing vegetation obscures some of the facility from view. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment. This Conditional Use reduces the compatibility height standard to 135 feet since the adjacent property is used for agriculture.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower does not detrimentally impact the operation of airports in the vicinity.

BARFIELD Are there any neighboring towers that are in that area that could be utilized?

KNEBEL No, there are not.

BISHOP Condition A, can we assume that the applicant would agree to accept other users on the tower?

KNEBEL Yes, up to 6 users, and that is addressed in Condition D. I should also mention Condition F dealing with lighting. This item will have to go, if it is approved, to the County Commissioners to provide a waiver of the Zoning Code's regulations regarding lighting because this tower is over 200 feet and would require daytime flashing white lights which typically are not permitted except by exception by the County Commissioners.

KIM EDGINGTON, AM Consulting, 142 N. Emporia, Wichita, KS 67202 Agent. I will stand for questions. We are in complete agreement with staff recommendations.

MOTION: To approve as per staff comments and conditions.

MICHAELIS moved, **COULTER** seconded the motion, and it carried (11-0).

6. Case No.: ZON2003-08 – Estate of Vera J. Casado c/o John McKay request a zone change from "B" Multi-family Residential to "GC" General Commercial on property described as;

Lots 65, 67, & 69 on Market, Munger's Original Town Addition, Wichita, Sedgwick County, Kansas. Generally located South of Murdock and west of Market

BACKGROUND: The applicant is seeking "GC" General Commercial zoning for Lots 65, 67 & 69, Munger's Original Town Addition, on the Market Street Side, located northwest of the Market Street & East Pine Street Intersection. The lots are currently zoned "B" Multi-Family Residential and are vacant. These lots are part of a site that the applicant proposes to develop into the Sedgwick County Emergency Communications Center. Rezoning the lots will give the applicant the same zoning for most of the proposed site.

The site is part of a block wide area with approximately two-thirds of it zoned "GC" and the southeastern, continuous one-third zoned "B". There are two office buildings on the block with the most recent development being the Wichita Area Builders Association (WABA) building on the north end. The office faces Main Street. Parking for this office is to the south and southeast of it. The other office building is located in the southwest section of the block, faces Main Street, with parking in the front of the building and on its north side. The office has an attached garage that has access onto a 20-foot wide alley. The alley separates the east and west halves of the block, except for the northern one-third where the alley has been vacated. The applicant has filed a request to vacate the remainder of the alley; VAC2003-00005. Private parking lots for Eby Construction and Utility Contractors are located on the southeast and southwest end of the block and abut Pine Street. There are two undeveloped sites also located in the block.

The area around the site is developed predominately as office with commercial zoning with some "B" zoning. Single-story and two-story offices are north of the area. West of the area are offices, for Sedgwick County (with multi-story parking), the Red Cross, and Fire Station #1. South of the area is a vacant commercial building, Eby Construction's office and Utility Contractors' office. In this southern area there are several structures that have National Historical Site Status, including the Ark Valley Lodge and the Old Sedgwick County Courthouse. These buildings' National Historical Site Status puts a small southwestern section of Lot 65 within their historical buffer area. There are single-story offices and older apartments east of the site's area, across Market Street.

CASE HISTORY: Lots 65, 67 & 69 are part of the Munger's Original Town Addition, which was recorded in Butler and Sedgwick counties in 1870.

ADJACENT ZONING AND LAND USE:

NORTH:	"GC"	General Commercial	Undeveloped, Parking, Office
	"B"	Multi-Family	
SOUTH:	"GC"	General Commercial	Parking, Office
	"B"	Multi-family	
WEST:	"GC"	General Commercial	Office, Undeveloped
EAST	"GC"	General Commercial	Office, Apartments, 4-plex
	"LC"	Limited Commercial	
	"B"	Multi-Family	

PUBLIC SERVICES: Market Street is a one-way going north two-lane arterial road. Main Street is a one-way going south four-lane arterial. Murdock is a four lane arterial with a turn lane. Pine Street is a two-lane local street. The daily traffic counts at the Murdock - Market intersection is 3,533 ADT's north of the intersection, 4,281 ADT's south of the intersection, 8,947 ADT's west of the intersection and 3,277 ADT's north of the intersection. The 2030 Transportation Plan projects no change for these roads. Public sewer and water services are available.

CONFORMANCE TO PLANS/POLICIES: Commercial location guidelines contained in the 2002 update of the *Wichita-Sedgwick County Comprehensive Plan* indicate that commercial sites should: be located adjacent to arterial streets or major thoroughfares; be coordinated with mass transit routes, high density residential, employment or other intensive uses; have site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential uses; be located in compact clusters or nodes versus extended strip development; and be located in areas of similar development, and where traffic patterns, land uses and utilities can support such development. The *Wichita Land Use Guide* depicts this site as appropriate for commercial uses.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Properties to the south and east are zoned "GC" General Commercial, "LC" Limited Commercial, and "B" Multi-family. Properties to the north and west are zoned "GC". These areas have experienced some recent commercial development with, the WABA office being the most recent development. The "B" zoned properties have older apartments, parking lots and some undeveloped sites.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "B" multi-family. The site is part of the southeastern one-third of the block zoned "B" with the rest of the block zoned "GC". The "B" zoned property south of the site is a parking lot. The site could be developed for multi-family use, but it would be out of character with the recent commercial development in the area that surrounds it.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested zoning change of "B" to "GC" is in character with the area and would not detrimentally affect nearby property, of which most of it is zoned "GC" and developed as office or commercial.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested zoning change to "GC" matches the plan's recommendation of commercial uses for this site.
5. Impact of the proposed development on community facilities: Impact will be minimal, although traffic will increase as the site's current undeveloped and vacant state changes to the proposed development.

BILL LONGNECKER Planning staff presented the staff report, noting that there was a vacation case attached to the case and that it should be considered along with this zoning change request.

KATHY SEXTON, Assistant County Manager (agent) I have nothing to add but I will answer any questions you have.

BISHOP Given that this project moves along, when will the County begin work?

SEXTON We are in the process of hiring an architect right now to design the building, and then we will complete construction, probably in a couple of years by the time that it is all done.

HENTZEN Does this fit in with part of the homeland defense with funding?

SEXTON No. There are a couple of project going on for public safety, and this one is just for moving the 911 dispatch folks from the courthouse basement to this building across the street, and then, also, the emergency management and emergency operations center from the courthouse basement to this new building.

MOTION: To approve and accept staff comments on item #3-1 and item #6

WARREN moved, **DUNLAP** seconded the motion, and it carried (11-0).

Anyone to speak from the audience on Items 7, 8, 9, or 10? Someone to speak on Item 7.

GAROFALO On Item 9, on page 4 on the conditions, one point of access on Meridian shall be permanently closed. Is there more than one access now?

GOLTRY Yes, there is a circle drive there today, and there are two points of access. The applicant understands that there will only be one allowed.

MOTION: To approve items 8, 9, and 10 subject staff recommendations and conditions.

MARNELL moved, **GAROFALO** seconded the motion, and it carried (11-0).

7. **Case No.: ZON2003-09-** Sholfield-Hatchett, Inc. dba Schofield Honda c/o Pat Dorsett request a zone change from "TF-3" Two-family Residential to "LC" Limited Commercial on property described as;

The east 47 feet of Lot 5 and the west 9 feet of Lot 6, Block 10, Eastridge Addition, Wichita, Sedgwick County, Kansas. Generally located North of Orme and west of Governour (6938 E. Orme).

SCOTT KNEBEL, Planning Staff, presented the following staff report:

BACKGROUND: The applicant requests a zone change from "TF-3" Two-Family Residential to "LC" Limited Commercial on a 0.15 acre platted tract located north of Orme and west of Governour at 6938 E. Orme. The subject property is developed with a single-family residence. The applicant proposes to use the existing residential structure as an accessory structure for file storage associated with the Scholfield Honda business that the applicant operates on the property located immediately east of the subject property. The applicant also proposes to pave the back yard of the existing residential property and use the paved area as an accessory parking area for Scholfield Honda. Since the subject property will be used only for purposes that are accessory to the applicant's vehicle sales business, the proposed uses are permitted in the requested "LC" Limited Commercial zoning district. Were the property to be used for the display or storage of vehicles for sale or were the property to be used as a vehicle sales office, a Conditional Use would be required.

The surrounding area is characterized primarily by commercial uses along the Kellogg corridor. Residential uses are located primarily south of the subject property. The property to the north is zoned "LC" Limited Commercial and is developed with a bowling alley. The property to the east is zoned "LC" Limited Commercial with a Use Exception to permit a vehicle sales lot. The properties to the south are zoned "SF-5" Single-Family residential and are developed with single-family residences. The properties to the west are zoned "TF-3" Two-Family Residential and is developed with single-family residences.

Any new construction on the subject property will require full compliance with current screening, compatibility, and landscaping requirements. For the proposed new parking area, screening and buffer landscaping will be required from the residential property to the west. The screening requirement is typically satisfied by the construction of a 6-foot high solid screening fence, in this instance along west side of the proposed parking area. The buffer landscaping requirement would require one shade tree or the equivalent every 40 feet along the west side of the proposed parking area. Existing vegetation on the subject property that is left in place after the construction of the parking area can be used to satisfy the buffer landscaping requirement. If the existing building on the subject property is expanded by more than 30 percent or remodeled at a cost of 50 percent or more of its fair market value, then the expansion/remodel would need to comply with all current screening, compatibility, and landscaping requirements.

Since the Comprehensive Plan indicates that commercial traffic should not directly access local streets, planning staff recommends that access control from the subject property to Orme be required. The recommended access control would permit the existing residential driveway to remain as long as the existing residential structure is in place, but would not permit an access drive from Orme to any parking areas on the subject property. Also, since the proposed parking area on the subject property will be accessed from the adjacent commercial property located to the east, planning staff recommends that a cross-lot access easement be required.

CASE HISTORY: The subject property is platted as a part of Eastridge Addition, which was recorded December 3, 1949.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC"	Bowling alley
SOUTH:	"SF-5"	Single-family
EAST:	"LC"	Vehicle sales
WEST:	"TF-3"	Single-family

PUBLIC SERVICES: The subject property has access to Orme, a paved local street. Planning staff recommends conditions of approval that would not permit commercial traffic from the subject property to access Orme and instead would require commercial traffic to access the subject property through a cross-lot access easement from the applicant's property to the east. The subject property is currently served by municipal water and sewer service.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The subject property can meet the Commercial Locational Guidelines through the recommended restrictions on access to Orme and the application of screening and landscaping requirements to new construction on the property.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to meeting the following conditions within 60 days of approval:

1. Dedication by separate instrument of complete access control for Orme along the entire length south property line. Said access control shall be deferred for the existing drive to the existing residential structure until such time as the existing structure is removed, but shall prohibit access to Orme for any parking area (other than existing driveway) on the subject property.
2. Dedication by separate instrument of a cross-lot access easement to the adjoining property to the east.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized primarily by commercial uses along the Kellogg corridor. Residential uses are located primarily south of the subject property. Most of the adjacent properties north of Orme are zoned "LC" Limited Commercial are developed with commercial uses. Therefore, the proposed zoning of the subject property is consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "TF-3" Two-Family Residential, and is currently developed with a single-family residence, a permitted use in the "TF-3" district. Therefore, the subject property appears to be suitably restricted; however, the MAPC has an informal policy of supporting business expansions on adjoining tracts rather than requiring relocation.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The subject property can meet the Commercial Locational Guidelines through the recommended restrictions on access to Orme and the application of screening and landscaping requirements to new construction on the property.
5. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted if the recommended dedications of access control and cross-lot access are required.

WARREN The screening that is required now, would that be the screening in between those houses? That might be a little offensive. Would you not just screen off the back maybe?

KNEBEL The proposal is to pave this backyard and extend this parking area, and what would be required would be to provide screening along this west boundary line, basically a solid fence, and they would also be required to meet the landscape buffer.

WARREN You are not requiring screening between those two houses at this point?

KNEBEL What would trigger screening between the two houses would be a construction permit on the existing house on the subject property.

GAROFALO On page 2, in the background of your report this would be used for accessory parking, with a car dealership what does that mean?

KNEBEL I will let you ask the applicant exactly who will be parking there, but I would assume employees.

GAROFALO The next sentence says they will need a Conditional Use permit if it was going to be used for vehicles for sale.

KNEBEL My assumption is that they are relocating the employee parking and planning to store cars for sale where the employees are currently parking.

PAT DORSETT SCHOLFIELD-HATCHETT, Inc., 7017 E. Kellogg, Wichita KS, applicant The paving of the back lot was to park one vehicle. We have a trailer with a truck for transporting dealer trade vehicles back and forth, and that was the only reason for paving the back lot is to park that one vehicle with the trailer. We are not moving the employee parking or parking any vehicles for sale back there.

BARFIELD Sir, do you envision any circumstance where that truck would be parked back there loaded with automobiles?

DORSETT No, not at any time.

PAULA TODD, 6932 E. Orme, Wichita, KS 67207 I have lived there since 1996, and we have had problems with flooding in the backyard. I called Chris Carrier, who sent a letter to Scholfield, dated August 6, 2002. The Honda dealer I talked with on the phone said that he liked to get along with his neighbors and that he would get back to me. I talked to Chris Carrier a couple of days ago, and he said I should come here and express my concerns. He also said that the parking lot that they already have is causing water to seep off their parking lot into my backyard. I have had a lot of water in my backyard, and they have not even tried to talk to me, or anything, about fixing the problem. So that is why I am opposed to this zone change, and that they are going to extend it, and I am going to have even more problems with flooding back there.

HENTZEN If they solved the drainage problem would you have any problems then?

TODD No, I don't have any objection to the parking lot if they fix the drainage.

HENTZEN The City has worked hard on drainage problems.

TODD I grew up in this house, and we never had any problem before the parking lot, and then things started to flood.

DORSETT I don't remember if I spoke with this resident or not. Chris Carrier's recommendation was to put a curb on the back of this property and there already is one. It was difficult for us to understand how our parking lot could affect a house a lot away. How could we cause flooding two houses down by adding that parking lot? There is a curb. If we did decide to pave the backyard, we would address any of those drainage issues.

HENTZEN Wouldn't it be proper that the question of drainage would be considered at the time that they try to take out a permit?

BISHOP With a drainage study?

WARREN Is there a fall from the backyard to the street? Is the street lower so that it could drain to the street?

DORSETT I believe so. We would be willing to address that if we would pursue the paving of the backyard.

WARREN We don't normally get into drainage problems.

MOTION: To approve item #7 and hopefully the drainage problem could be worked out between the parties.

WARREN moved, **MICHAELIS** seconded the motion.

BISHOP I have a question of staff. I note there was not a District Advisory Board consideration.

KNEBEL We scheduled it for the D.A.B., and the D.A.B. cancelled the meeting because of the turnover at the election.

BISHOP I think there will be a drainage impact. Is there anyway to look at requiring a drainage study?

MILLER You could add a Protective Overlay that requires that prior to a building permit being issued or a paving permit, that the applicant address the drainage on his site with respect to the adjoining properties. You could do that. It is not going to go through platting since it is already platted. That would be the only other way that I would know to address it.

BISHOP Would the motion maker take an amendment to his motion?

WARREN I would hate to see it in a P.O. I would like to tie some kind of requirement to the building permit that would address the issue.

MILLER The Protective Overlay would be the only way that I would know to do it so that it would be binding. The Commission could encourage and ask the applicant to do it, but if you want to see that it gets done, that is the only way that I know to get it done.

WARREN How much will a drainage study cost?

MILLER The City does not charge a fee to review drainage plans.

WARREN I don't have any problem including that in my motion that prior to building permits being issued that the drainage issue be addressed and satisfied.

MICHAELIS I withdraw my second. It is going to take place anyway.

WARREN Normally we would do this in a platting situation and it would come up with site review.

MICHAELIS It would also take place when they get the permit, but you don't have to tie it with a protective overlay because it is going to take place anyway as part of the inspection process and as far as the building process.

WARREN You are saying that a site plan would have to be issued and that site plan would automatically trigger a need for a drainage plan?

MICHAELIS It is going to have to show on there that it is going to have to have drainage.

WARREN Would the site plan requirement do the same thing?

MILLER It may. All I know is as far as what the Planning Commission could do, that is the only way I know to address it.

WARREN What then would this hurt to add a Protective Overlay?

MARNELL The Protective Overlay will stay with the land forever.

MICHAELIS Plus the unnecessary paperwork involved.

WARREN I am not satisfied that building inspections will take a look at this and review that site plan in a manner that would insure the drainage issue be resolved.

MICHAELIS When they take the site plan in for review, it is going to have to have elevations on it and those elevations are going to show drainage.

WARREN I guess that site plan is not going to include that property next door.

MICHAELIS But, it is not this person's responsibility to take care of the person next door drainage problem. They are only required not to drain onto that property.

BISHOP With more paved area there is going to be more drainage.

MICHAELIS That house next door looks higher than the parking lot so I am having a hard time trying to figure out where the water is being "ponded-up" at.

WARREN I will let the motion stand with the modification to add the Protective Overlay.

MOTION: Approve as per staff comments and conditions with the modification to add the Protective Overlay and that prior to building permits being issued that the drainage issue be addressed and satisfied.

WARREN moved, **BISHOP** seconded the motion.

MARNELL I am going to oppose the motion because the Protective Overlay will stay with that property forever and stay on the books.

MILLER It would run with the land, but once the issue has been address it would be negligible as far as the impact, but it would never go away without some further action.

GAROFALO It will still be raining 50 years from now, so I don't see a problem there at all.

MOTION CARRIES (7-4). **MARNELL, MICHAELIS, ANDERSON,** and **DUNLAP** opposed

8. **Case No.: ZON2003-10** – 786, Inc. c/o Tajdin Gillani (owner) request a zone change from “LC” Limited Commercial to “GC” General Commercial on property described as;

Lots 5-20 on Lawrence, now Broadway, Avenue, Lewis Young's Addition, Wichita Sedgwick County, Kansas.
Generally located Southwest corner of Kellogg and Broadway.

BACKGROUND: The applicant is requesting rezoning from “LC” Limited Commercial to “GC” General Commercial for the half-block located on the west side of Broadway between Kellogg Drive and Orme. The site is the location of a hotel, the La Quinta Inn, which is undergoing a major remodeling. As part of the project, the owner would like to add a wall sign taller than would be permitted in the “LC” district. Wall sign heights are unrestricted in the “GC” district. The size of wall signs is limited to 400 square feet or a maximum of 20 percent of the wall façade.

La Quinta Inn occupies the majority of the block bounded by Kellogg, Broadway, Orme and Market. The hotel faces Broadway. Parking areas are located on the southeast corner of Market and Kellogg (zoned “GC”), the northeast corner of Market and Orme (zoned “B” with an ancillary parking Conditional Use-CON2002-00041 approved August 22, 2002), and the southern portion of the property included in this application. The only part of the block not used by the hotel is two residential structures zoned “B” Multi-family Residential.

The surrounding block to the east and west is zoned “GC”. The block to the south along Broadway is zoned “LC”. A variety of commercial and retail uses are located in these blocks. The Kellogg fly-over adjoins the property to the north and separates the site from the Central Business District. Residential uses on property zoned “B” are predominant to the southwest of the site.

CASE HISTORY: The application area is part of Lewis Young's Addition, platted in 1887.

A variance for the site was granted (Wichita Board of Zoning Appeals Case #10-85) to reduce the parking requirements; another variance was granted (Case #30-72) to reduce the front setback on Orme to zero feet and the side setback on Market to zero feet.

ADJACENT ZONING AND LAND USE:

NORTH: Right-of-way, “CBD”	Kellogg fly-over, commercial
SOUTH: “LC”	Hotel, commercial
EAST: “GC”	Car lot, commercial
WEST: “GC”, “B”	Limited manufacturing, residential

PUBLIC SERVICES: East Kellogg Drive is a 2-lane, with a turn lane, one-way going east frontage road for Kellogg – US Highway-54. Broadway is a four-lane arterial street. 2002 traffic counts for Broadway at Kellogg were 10,876 ADT. This is projected to increase to 14,890 ADT in 2030. Market Street is a one-way northbound two-lane arterial street. There are no daily traffic counts at this intersection. The 2030 Transportation Plan projects no change for these roads. Public sewer and water services are available.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* classified the subject tract as “commercial”. Commercial location guidelines contained in the 2002 update of the *Wichita-Sedgwick County Comprehensive Plan* indicate that commercial sites should: be located adjacent to arterial streets or major thoroughfares; be coordinated with mass transit routes, high density residential, employment or other intensive uses; have site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential uses; be located in compact clusters or nodes versus extended strip development; and be located in areas of similar development, and where traffic patterns, land uses and utilities can support such development.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding block to the east and west is zoned “GC”. The block to the south along Broadway is zoned “LC”. A variety of commercial and retail uses are located in these blocks. The Kellogg fly-over adjoins the property to the north and separates the site from the Central Business District. Residential uses on property zoned “B” are predominant to the southwest of the site.
2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned “LC” Limited Commercial and could continue to be used with this zoning designation.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of “GC” General Commercial zoning would permit an intensification of use for the property and allow auto-related uses by-right. However, this is the area designated on the Comprehensive Plan as appropriate for these types of uses. The immediate impact of this change would be to allow taller wall signage that will be highly visible from the Kellogg fly-over and the CBD.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change is in conformance with the *Comprehensive Plan* designation as "commercial".
5. Length of the time property has remained vacant as zoned: The property is occupied currently as a hotel.
6. Impact of the proposed development on community facilities: The proposed change is not anticipated to generate any significant increase in traffic or need for public services.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **GAROFALO** seconded the motion, and it carried (11-0).

9. **Case No.: ZON2003-11** – Scott M. Ward, Kathryn G. Ward, Jay A. Davis and Brenna S. Davis (owners) request a zone change from "MF-29" Multi-family Residential "NO" Neighborhood Office on property described as;

Lots 20 and 22 on Meridian Avenue, and the north 50 feet of Lots 2, 4, 6, and 8 on Lincoln Street (now Irving), together with the north half of vacated alley adjacent to said Lot 22 on the south, and the south half of vacated alley adjacent to said Lots 2, 4, 6, and 8 on the north; all in Garfield Addition, Wichita Sedgwick County, Kansas; except the west 10 feet thereof condemned for street right-of-way in case number A-53077. Generally located North of Irving and east of Meridian.

BACKGROUND: The applicants are requesting rezoning of a 0.3 acre tract that is located on the west side of Meridian about 100 feet north of Irving Street and that is zoned "MF-29" Multi-family Residential. The applicants are constructing a new residential-style building on the property and would like to use it as an office for a computer business. "NO" Neighborhood Office is the first zoning district that would permit this type of use.

The application area meets Unified Zoning Code setbacks for the "NO" district except the compatibility setback for the rear property line, which should have been 25 feet instead of 20 feet. Sufficient area is available to comply with City of Wichita Landscape Ordinance requirements; compliance with the Landscape Ordinance would be triggered by conversion to a commercial use accompanied by a 30 percent expansion of the building improvements or 50 percent of the value of building improvements. However, it is unlikely this threshold would be met because the applicant is seeking to convert a new structure to commercial use and does not intend to make any significant alterations to the structure. The use of a protective overlay could require the site meet the customary requirements for a commercial use.

The adjacent properties are zoned "MF-29" or "TF-3" Two-family Residential but occupied with single-family residences except for a triplex to the south and a duplex to the northeast. The intersection of McCormick and Meridian, located one-half block to the north, has retail/commercial uses on all four corners on property zoned "LC" Limited Commercial. These uses include a bar, bingo parlor, service station, auto repair and some smaller retail uses. A new fire station is located on the southeast corner of Irving and Meridian nearby. An apartment building on property zoned "GO" General Office is located a block to the southwest. The remaining properties in the vicinity along Meridian are residential.

CASE HISTORY: The application area is part of Garfield Addition, platted in 1887.

ADJACENT ZONING AND LAND USE:

NORTH: "MF-29"; "LC"	Single-family, duplex, retail
SOUTH: "MF-29"	Single-family, triplex, fire station
EAST: "TF-3"	Single-family residences
WEST: "MF-29"	Single-family residences, vacant

PUBLIC SERVICES: Meridian is identified as a four-lane arterial on the 2030 Transportation Plan. The nearest traffic count for 2002 was 14,872 cars per day for two-way traffic volumes on Meridian south of McCormick. Projected volumes for 2030 are 19,000 cars per day. Meridian is included in the City of Wichita Capital Improvements Program for widening of Meridian in 2009.

All other normal municipal services are available to the site.

CONFORMANCE TO PLANS/POLICIES:

The Wichita Land Use Guide in the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* classified the subject tract as "low density residential". The property on the west side of Meridian is designated as "high density residential" and the property about 150 feet to the north is designated as "commercial"

The Comprehensive Plan objective for commercial/office use for areas outside downtown Wichita (**Objective III.B**) is to "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses". **Strategy III.B.1** seeks to "regulate new strip commercial development to areas identified by the 'Wichita Land Use Guide' and neighborhood/subarea plans for

expansion.” The site is 200 feet south of the area identified for “commercial” use on the “Wichita Land Use Guide”. **Strategy III.B.3** seeks to reduce the number of access points along arterial streets, implementation of this strategy is through the Access Management Policy.

“Office Locational Guideline” #1 indicates that offices should be along arterial streets. “Office Locational Guideline” #2 indicates that low-density office use can serve as a transitional land use between residential uses and higher intensity uses.

The Wichita Residential Area Enhancement Strategy of the Comprehensive Plan identifies the subject property as being located within a Revitalization Area. Revitalization areas are experiencing decline and need stabilization to increase the neighborhood’s attractiveness for private investment in residential properties. In order to conform to the revitalization strategy, the proposed rezoning should include buffering, screening, landscaping, restricted signage and restricted lighting to blend with the surrounding residential uses.

RECOMMENDATION: The property is designated on the Comprehensive Plan for “low density residential”. Property one-half block to the north is shown as “commercial”, as requested by this zoning. The requested zoning district of “NO” Neighborhood Office is the most restrictive of all commercial zoning districts and is considered the most appropriate category when a property is serving as a buffer between more intensive and less intensive uses or is in close proximity to residential uses. The recent institutional use (fire station) developed nearby to the south, coupled with the “GO” zoning a block to the southwest are other elements that indicate a modest increase in use of the property on this block of Meridian may be appropriate.

Commercial uses normally are required to meet Unified Zoning Code requirements for setbacks, compatibility setbacks, screening, parking and other site design standards and the Landscape Ordinance. The Access Management Policy would regulate the number of access openings permitted onto Meridian. In this case, the property was recently developed with a new structure designed for single-family use. A protective overlay could achieve compliance with the standard policies for new commercial development. It should be noted that the newly constructed building provides a 20-foot rear setback, but the compatibility setback would have been 25 feet. It is recommended that this reduction from 25 feet to 20 feet be requested as a Unified Zoning Code adjustment pursuant to Article V, Section V-I.2.d and that this reduction be compensated by landscaping.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED, subject to a protective overlay with the following conditions:

1. The property shall meet Unified Zoning Code requirements for site development regulations, including parking, screening and compatibility setbacks and the City of Wichita Landscape Ordinance requirements for a landscaped street yard on Meridian and buffers adjacent to residential zoning districts.
2. Free-standing signage shall be restricted to one monument style sign with a maximum height of six feet and a maximum sign face of 12 square feet.
3. Primary exterior building materials shall consist of materials typical of residential construction. Metal siding shall not be permitted as an exterior material except as incidental trim.
4. Lighting standards shall be no more than 14 feet in height, and shall otherwise conform to Sec. IV-B.4 of the Unified Zoning Code.
5. One point of access on Meridian shall be permanently closed.
6. The applicant shall dedicate a 10-foot contingent dedication of utility and pedestrian easement along Meridian.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The adjacent properties are zoned “MF-29” or “TF-3” Two-family Residential but occupied with single-family residences except for a triplex to the south and a duplex to the northeast. The intersection of McCormick and Meridian, located one-half block to the north, has retail/commercial uses on all four corners on property zoned “LC” Limited Commercial. These uses include a bar, bingo parlor, service station, auto repair and some smaller retail uses. A new fire station is located on the southeast corner of Irving and Meridian nearby. An apartment building on property zoned “GO” General Office is located a block to the southwest. The remaining properties in the vicinity along Meridian are residential.
2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned “MF-29” Multi-family Residential and could continue to be used as a single-family residence, or could be converted to a multifamily use with a maximum of seven dwelling units, so long as the property could meet other height, setback, parking and landscaping requirements. The impact of these requirements would probably be to yield more like three to four potential dwelling units.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed rezoning could encourage transition of other dwellings on this block face of Meridian to non-residential use. However, the protective overlay provisions and “NO” designation would argue for any other transition in the block to be

equally low-impact. The proposed rezoning should not impact the block south of Irving since the fire station can be used as the southern boundary for future non-residential use in the vicinity.

4. The length of time the subject property has remained vacant as zoned: The site has been vacant since 1992 until the residential construction in 2001.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The proposed zone change does not conform to current Comprehensive Plan designation. If approved with the recommended protective overlay provisions, it should be in compliance with the appropriate Commercial/Office strategies and Office Locational Guidelines and with site development regulation policies of the Unified Zoning Code and City of Wichita Landscape Ordinance.
6. Impact of the proposed development on community facilities: The impact on traffic and other public facilities should be minimal. The closure of one point of access would reduce this traffic impact and assist in achieving access management policies.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **GAROFALO** seconded the motion, and it carried (11-0).

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10. **Case No.: ZON2003-12** – Janie Sandlian request zone change from “SF-20” Single-family Residential “GO” General Office on property described as;

Beginning at the Southeast corner of the South half of the North Half of the Southeast Quarter of the Southeast Quarter of section 28, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence westerly, on the south line of said South Half, a distance of 375 feet; thence Northerly, parallel with the east line of said South Half, a distance of 225 feet; thence easterly, parallel with the south line of said South Half, a distance of 375 feet, to a point on the east line of said South Half; thence southerly, on said east line, a distance of 225 feet to the point of beginning. Generally located North of Harry on the west side of Greenwich.

BACKGROUND: The applicant is requesting “GO” General Office zoning on 1.9 acres of unplatted property located approximately 625-feet northwest of the Harry Street and Greenwich Road intersection. The site is located approximately 70 feet outside the Wichita city limits. The site has a large building (approximately 6,736.30 square feet) with two (2) asphalt parking areas on it. The building is brick and composite or wood siding with a residential design. The applicant proposes initially to use a portion of this building, which is developed as an office, for his insurance business. The site is part of approximately 20 acres, all of which is zoned “SF-20”, Single-Family Residential .

Properties abutting the site to the north and west are zoned “SF-20”. The property north of the site has a large single-family residence on it, while the property west of the site is undeveloped. Property east of Greenwich Road is zoned “SF-20” and “SF-5” Single-family Residential. These properties are developed as three (3) single-family residences and the Ball Addition with single-family residences. Properties south of the site are zoned “LC” Limited Commercial (part of the commercial zoned node with 600-foot x 600-foot “LC” zoning on the four (4) corners of the intersection) at the Harry Street and Greenwich Road intersection) and “SF-5” southwest of the site. The “LC” zoned property is developed as a farmstead, while the “SF-5” zoned property is undeveloped. There is an automotive repair shop south of the intersection and single-family residential and undeveloped properties

The site will have to be developed in compliance with all the code requirements including buffering, landscaping and screening.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20	Single-family residential, undeveloped
SOUTH:	LC, SF-5	Farmstead, single-family residential, automotive repair undeveloped
EAST:	SF-20	Single-family residential, undeveloped
WEST:	SF-20	Undeveloped

PUBLIC SERVICES: Greenwich Road and Harry Street are currently improved 2-lane arterials. The 2030 Transportation Plan projects Greenwich Road as a 4-lane arterial and Harry Street as a 4-lane arterial east of the intersection and a 2-lane arterial west of the intersection. Traffic counts for the intersection are 7,736 average daily trips (ADTs) east of the intersection, 4,614 ADTs south of the intersection, 4,268 ADTs west of the intersection and 7,052 ADTs north of the intersection. Projected 2030 traffic volumes on Greenwich between the turnpike and Harry are 16,000 ADTs per day. Harry is scheduled for widening to 4-lane arterial standards in 2008 – 2009. Public water and sewer are available.

CONFORMANCE TO PLANS/POLICIES: The site is located within the "Wichita Land Use Guide's" 2010 Urban Service Area. The site is abutting the commercial node established by the County at this section line road intersection in 1958. These commercial nodes have 600-foot (x) 600-foot sections on all four corners of chosen section line intersections throughout the County. Although this site is designated for low density residential, an office use would be an appropriate buffer between commercial and residential uses. "Office Location Guidelines" indicate that offices should be located adjacent to arterial streets and they should be incorporated within or adjacent to neighborhood and community uses at an appropriate scale.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within a year. The recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The surrounding properties are developed as farms and farmland on land zoned "SF-20", "SF-5" or "LC". There is one single family residence on a lot of over 10-acres zoned "SF-20" north of the site and an urban scale single family subdivision on "SF-5" northeast of the site. Property to the south is zoned "LC" as part of the commercial node located at the intersection.
2. The suitability of the subject property for the uses to which it has been restricted. The site is currently zoned "SF-20" which allows a lower density of development and has fewer uses "by-right" than the district requested. The property could be developed as zoned, but the requested office zoning is an appropriate buffer zoning district between the "LC" commercial node at the intersection south of the site and the low density residential zoning north of the site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Intensity of use and traffic volumes will increase over current conditions if the request is approved. However if the site is developed in compliance with all codes including landscaping, screening and buffering, the negative impact on the nearby properties will be minimal.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The site is located within the "Wichita Land Use Guide's" 2010 Urban Service Area. The recommended land use guide did not anticipate office development at this location, however office use is an appropriate buffer between commercial and residential uses. "Office Location Guidelines" indicate that offices should be located adjacent to arterial streets and they should be incorporated within or adjacent to neighborhood and community uses at an appropriate scale.
5. Impact of the proposed development on community facilities: Traffic will increase, and there will be increase demand for municipal type services over the non-commercial use that exists today. However, already planned improvements, or those obtained during the platting process, will address these additional needs.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **GAROFALO** seconded the motion, and it carried (11-0).

11. DR2003-00011 - Proposed Revision to the Sedgwick County Solid Waste Management Plan.

On March 19, 2003, the County Commission requested the Metropolitan Area Planning Commission to review the County's solid waste plan prior to April 17, to determine whether the plan, if revised to provide for the establishment of a solid waste disposal area, would be consistent with adopted plans. (See attached Resolution.)

A review of the adopted 1999 update of the *Wichita-Sedgwick County Comprehensive Plan* reveals the following statement in two locations:

Amend the Sedgwick County Solid Waste Management Plan to allow the option of a new landfill site in the County. (Section 1. Plan Update Overview, Public Facilities and Infrastructure, p. 6, and Goal VI, Objective D. Strategy VI.D2, p. 20.)

The Transportation/Utilities land use category described on the *Sedgwick County Development Guide* map includes "landfills" within that definition.

Given the *Comprehensive Plan* language cited above, amending the *Solid Waste Plan* to include the proposed statement regarding the establishment of a solid waste disposal area would be consistent with adopted plans.

Recommended action: a motion indicating that a revision of the County's Solid Waste Plan to include a statement regarding the establishment of a solid waste disposal area would be consistent with adopted plans.

WARREN We now have that in our Comprehensive Plan, and it is in there twice, and it is our endorsement of that and extended on to the County Waste Management Plan.

MILLER Yes, they asked for you to review your plan and see whether such a statement in the Solid Waste Plan would be consistent.

BISHOP I have not looked at the areas that you have talked about. Is there any distinction in the Comprehensive Plan in terms of construction and demolition landfills, or what we generally think of as a trash landfill?

MILLER No, I don't believe that it is. In my review that one statement that is in the memo was in there twice, and I believe we have folks from the County if you have specific questions about anything that relates to the Solid Waste Plan or this particular request.

HENTZEN Does the County want to speak to this subject?

IRENE HART, COMMUNITY DEVELOPMENT DIRECTOR No, they don't want to speak.

RANDY PARKER, 8401 E 101st North, Valley Center, KS 67147 I am a member of the Sedgwick County Solid Waste Management Committee, but I am here representing myself today and not the Committee. It is my understanding that you have been directed by the board of County Commissioners to review the Comprehensive plan, and amend it to include a local landfill. I hope that you are truly doing a thorough review and will consider all of the impacts of a local landfill before you amend the Plan. It is also important to obtain information from several sources on this subject, and not limit yourself to what you have been told by local politicians, City Staff, County Staff, or citizens that have submitted input.

NOTE: Randy Parker's letter and presentation is on file in our office as part of the record for this meeting.

HENTZEN Randy, I am glad you are on the Solid Waste Committee. We are not asked to decide about a location, about incineration, about transfer stations; we are simply asked to decide if a local landfill is (consistent with what is) in our Comprehensive Plan. All this other stuff--we are not qualified or demanded or need to decide today. All they are asking us is if a local landfill in Sedgwick County is covered, or is included, in the adopted Comprehensive Plan? Our staff has studied it and has recommended to us that it is already in there. And that is all they are asking us to do. It is not a public hearing about where to put it or even if to put it. They are just asking, does it fit in the Comprehensive Plan? If you are not going to address that issue, I say we get it done and move on with other business before this Board.

BARFIELD If that is the case, why are we hearing from the public today?

GAROFALO I have a question to ask Mr. Randy Parker. I want to know if he is representing himself.

PARKER I am speaking for myself as an individual. I am not representing the Solid Waste Management Committee.

HENTZEN Let me ask the attorney about the issues I just addressed.

JOE LANG, First Assistant City Attorney, I would prefer the County address the issue since it is their plan. As a general matter, without addressing a specific issue, you do have a hearing on every item. But I will let County comment if they have any opinions on that.

HENTZEN I don't see any attorneys here from the County. Joe, have I interpreted this motion and presentation correctly?

LANG As I understand it, Commissioner Hentzen, you have.

BISHOP We have some members of the public that are here to speak to us. I think that it is certainly within our purview to give the public some guidance in terms of the parameters of the decision that we have to make. But I do believe that it is a public hearing and they have the right to be heard.

HENTZEN I understand what you are saying, but the County Commission is the rightful place for the public hearing. They are the decision makers.

BISHOP Was this published in the paper?

MILLER No, technically this is not a public hearing. It is an item on your agenda. You typically take testimony on items that are on your agenda, but in the sense of a public hearing this is not the public hearing. The public hearing, as I understand it, will either occur at a later meeting at the County Solid Waste Committee meeting or at the County Commission later. But, it is typically your practice to allow people to speak, to give them five minutes under the protocol that we have. The Commission could decide to change that since it is just a policy.

MARNELL I would be in favor of hearing the public on this as long as they stick to the item that we have on our agenda, which is does this item appear in our Comprehensive Plan and not to hear the whole trash issue.

LANG For items that are City items, the City Code requires you to have the public comment on all items whether or not it is noticed for a public hearing. Again, I will not address this as a County Item. I think it is a good idea to hear from the public that is here.

WARREN There are only two more people that are going to be allowed five minutes, and we have already spent that much time. Let's go ahead and hear them.

DUONE SANDERS, 11926 N. 127th East, Valley Center, KS 67147 After driving 25 miles, I certainly do want to speak. My address is four miles north of the Furley hazardous waste dump. I have been fighting landfills for 25 years. Solid waste landfills can be nasty in your neighborhood. I recommend that you deny the request to include a landfill in Sedgwick County Solid Waste Plan. Let's keep our County as clean and nice as we possibly can.

BRENDA MELBY, 11800 Turtle Creek Circle, Wichita KS 67226 I am 2,500 feet to this site. You need to accommodate county growth and trends. The 2000 Census Early Profile for Wichita, Sedgwick County, June 2001, page 5, figure 5 shows a map that shows the population increases from 1990 to 2000. There were two tracts in the County that underwent an 81 to 130% increase from that time frame...the northeast area of Sedgwick County, Bel Aire, Kechi, and Valley Center. I would like to remind you of their population increase before you go put a landfill up there. When anybody mentions a landfill in Sedgwick County, they are talking about putting a Subtitle D landfill on the land that the City bought near Furley in 1996. That land happens to sit in the heart of the highest population growth zone in Sedgwick County the northeast. Please deny this request.

MOTION: To take the recommended action as proposed by the Acting Planning Director.

ANDERSON moved, **GAROFALO** seconded the motion.

BISHOP We are being asked to decide if the sky is blue. I would like to ask staff what action the Planning Commission, Planning Department and the Community foresee in terms of addressing the Comprehensive Plan? Because, if we are being asked to say that the proposed amendment is in conformance with the Comprehensive Plan and the plan clearly list landfills and doesn't make any distinction between construction and demolition landfill, for instance, it is there. There is no room for disagreement as near as I could see.

MILLER All you are being asked to do is examine the Plan, and see whether or not that there is a statement in the Plan that says that a landfill could be an appropriate means to address solid waste management. We have reviewed the Plan and we have advised that it says that. Beyond that, it is not addressing whether there should be a landfill, or whether there will be a landfill, or how anything else should be handled with respect to landfills.

BISHOP Is there currently a process where the Comprehensive Plan is being addressed by the community in the coming months?

MILLER The County has the County Solid Waste Master Plan.

BISHOP I am talking about the Comprehensive Plan.

MILLER The Comprehensive Plan is reviewed on an annual basis.

BISHOP It is an ongoing process?

MILLER Staff is currently reviewing the Comprehensive Plan.

MOTION CARRIED 11-0.

12. MPO Designation, presentation by, Jamsheed Mehta.

Background: At the present time, the Metropolitan Area Planning Commission (MAPC) is designated as the Metropolitan Planning Organization (MPO). The MAPC/MPO is composed of individuals appointed by the Wichita City Council and the Sedgwick County Board of County Commissioners. The Technical Advisory Committee (TAC), and the Coordinating Committee on Transportation (CCT) assist the MAPC with its MPO duties. Engineers and planner from Wichita and Sedgwick County, transit and airport representatives and state and federal transportation officials make up the TAC. CCT is composed of chairman of the MAPC, chairman of the County Commission, representative from KDOT, the City of Wichita City Manager and the Chairman of the Transit Authority. The MPO is responsible for planning and programming transportation projects located within the "planning area," the area that is expected to urbanize within 20 years. For this MPO, the "planning area" currently is all of Sedgwick County. The "urbanized area" is the minimum geographic area designated by the Census that must be included in the MPO planning boundary.

In 2002, the U.S. Census Bureau expanded the boundary of the "urbanized area" to include parts of Butler and Sumner Counties. With this geographic expansion of the "urbanized area," the MPO now has the responsibility to provide for appropriate representation from Butler and Sumner Counties, including cities located with the expanded boundary, such as Andover and Mulvane.

On August 22, 2002, the MPO asked staff to facilitate discussions with representatives from the Sedgwick County, City of Wichita, the Kansas Department of Transportation (KDOT) and the U.S. Department of Transportation regarding applicable laws addressing MPO membership in light of the expansion of planning area.

Based upon a review of applicable regulations, it appears there are three potential approaches to providing representation: a) re-designate the MPO by substituting its current MAPC membership with a committee composed entirely of local elected officials; b) re-designate the MPO with local elected officials and officials of agencies that administer major modes or systems of transportation and appropriate State of Kansas officials; c) continue with the current MPO structure utilizing the MAPC, TAC and CCT, and expand the membership of those existing groups to include representatives from the newly expanded geographic area.

Federal regulations indicate that the MPO policy body must include representation from local elected officials, officials of agencies that administer major modes of transportation and state officials if the MPO were to be officially re-designated. If the re-designation option is selected, it must occur by agreement with the governor and local affected units of government representing 75 percent of the population of the entire metropolitan area. The central city, Wichita, must be among the units of local government agreeing to the re-designation. The regulations do not contain a requirement to re-designate the MPO; the regulations do require that appropriate parties be represented on the MPO.

Review Committee Proceedings: Three meetings of the review committee were held with representatives from the MAPC, Wichita, Sedgwick County, KDOT, and the US DOT, and facilitated by the planning department. The first meeting discussed the changes in boundaries and increased level of coordination between local governments that will be required by the MPO. Representatives from the US DOT explained the intent of the ISTEA and TEA-21 legislation with emphasis on inclusive and cooperative transportation investments, incorporating direct public accountability for the programming of public funds through a body of local elected officials as the policy body of the MPO, and support for local officials making transportation related decisions that meet local conditions.

Federal agencies stated that the MPO structural changes would have to be determined at the local level. They also stated that in addressing expanded urbanized boundary and the planning boundary, that this would be a good time to bring the MPO into conformance with the intent of the federal legislation and the preferred structure (having local elected officials) as exhibited by other MPOs.

The second meeting provided local and state representatives an opportunity to identify benefits and shortcomings of various options and discuss their preferences, and alternatives.

Options that were discussed included a policy body composed (a) entirely of elected officials, (b) with elected officials and representatives from State and major transportation modes, and (c) maintaining the current MPO policy board composition, but with elected officials serving in advisory capacities on committees. Each option would include one or two appropriate representatives from the expanded MPO area. These meetings did not preclude the consideration of other organizational structures, but were discussed only as being within a range of options. Other policy body structures are still an option.

The third meeting of the working committee involved stating of concerns and positions regarding the various organizational options described previously.

Directors of the Public Works departments for both the City of Wichita and Sedgwick County have voiced opposition to significant changes in the structure of the MPO. Both agencies preferred the possibility of adding planning commission members or elected officials from adjacent county/city to the existing MPO policy body (MAPC). It was also suggested that the addition of more local elected officials to the Coordinating Committee for Transportation (CCT), an advisory committee to the MPO policy body, would address the federal legislative intent.

Other reasons cited by Wichita and Sedgwick County officials for maintaining the current designation include:

1. Convenience of year-round meetings in conjunction with up to 22 scheduled annual meetings of the MAPC.
2. Convening periodic meetings for a new body of elected officials from multiple jurisdictions is logistically difficult, requiring additional time and public expense.
3. The membership of the existing Technical Advisory Committee (TAC), an advisory committee of the MPO policy body, already covers all the major transportation modes.

Representatives from the Kansas Department of Transportation viewed the adding of new membership as an opportunity for complying with the legislative intent of Congress. In a written statement, KDOT officials identified the need for formal "redesignation" and offered the following:

1. It is clear that Congress intended with the passage of ISTEA and TEA-21 for elected officials, representatives from major modes of transportation (e.g., transit, airports, railroads, etc) and appropriate state officials to serve on MPO policy boards.
2. The membership of the MPO policy board must be expanded to include representation for Andover, Mulvane, Butler County and Sumner County due to the expansion of the urbanized area with Census 2000. The State of Kansas and the MPO have a duty to expand the membership to include not only political representation but all groups called for by Congress in TEA-21 as described above.
3. It seems unlikely that the four new jurisdictions would want to cede the planning authority granted to them under KSA 12-741 et seq to the MAPC which would be the best argument for retaining the MAPC as the MPO (to coordinate permitted local land use planning with required regional transportation planning).
4. The Wichita-Sedgwick County Metro Area Planning Commission (MAPC) only provides indirect representation to the residents of Wichita and Sedgwick County. This representation is indirect because the members of MAPC are

appointed, not elected. This raises an accountability issue since the MPO programs local, state and federal funds for regionally significant transportation projects. There is an expectancy among the general public and elected officials themselves that local elected officials will be directly involved in these programming decisions.

5. Currently, the programming of funds for transportation projects is complex and confusing because the MAPC is advisory to both Wichita and Sedgwick County for the city and county local capital improvements programs (CIP), but is the decision-maker for the region for the TIP. This dual role is not well understood by many of the local participants in the process. The City and County develop the local CIPs before the MPO develops the TIP which raises process issues (the organizations putting up 20% of the money control how the other 80% is spent). The MAPC currently does not have a role in approving the CIPs for the other cities in Sedgwick County.
6. Also, because only Wichita and Sedgwick County appoint MAPC members, the small cities in Sedgwick County may not have their interests represented at the MAPC when those interests diverge from those of Sedgwick County.

KDOT further states that if the regional partners do not agree with the redesignation of the MPO, then it would expect to review another preferred alternative with an explanation as to why that approach would be better. "Ultimately, KDOT and the region must agree as to how we proceed."

Analysis: The Wichita "urbanized area" is the minimum area for which the MPO must provide transportation planning and programming services. The MPO's planning and construction funds from US DOT are tied to the population reported with the Census' year 200 "urbanized area." Therefore, an expanded planning boundary does not provide additional funds to the MPO. The expansion of the Wichita "urbanized area" into Butler and Sumner Counties requires that these areas have representation on the MPO (23 CFR 450.306j). Therefore, the MPO must change its membership to provide representation for the expanded area. Representation could come from the City of Andover, City of Mulvane, Butler County and/or Sumner County. If population ratios were to be used to determine representation, then one representative from the expanded area would be appropriate.

KDOT is recommending that the MPO explore the option of "re-designation." If that option were to be considered, then the Governor of Kansas, Sedgwick County and the City of Wichita would have the responsibility to determine appropriate representation. There is no statutory requirement to re-designate.

On April 1, 2003, the Wichita City Council - one of two governing bodies whose agreement is required by federal regulations for any changes to the MPO designation - voted to not change the designation of the current MPO.

Staff representatives of the City of Wichita and Sedgwick County are also recommending that the MAPC be retained as the MPO, and include representatives from the expanded area. The existing joint agreement contains authority for Wichita and Sedgwick County to revise their joint planning commission agreement to admit new members. Therefore, one or two representatives from the planning area outside of Sedgwick County can be added to exclusively conduct MPO business. The current TAC membership can be revised to include additional staff representatives from the new urbanized areas, and similarly, local elected officials can be added to the CCT membership.

Requested Action:

The MPO needs to develop a method of adding representation to the MPO. KDOT and local staff have suggested some solutions. The MPO needs to choose one of the suggested solutions, direct staff to work with officials from new urbanized areas in Butler County, and if required, draft the necessary changes to the joint planning commission agreement and the bylaws of the MPO.

JAMSHEED MEHTA, Planning staff presented report.

GAROFALO Should Sumner County be included in this to work with official from Butler County.

MEHTA Sure. In the case of Sumner County, Mulvane about 1/3 or 1/4 of Mulvane's population is on the other side of our County line. which is the reason why the urbanized area went in to Sumner County. If in fact the seat of Sumner County is in Sedgwick County and Sedgwick County is represented by virtue of 7 appointees from the Sedgwick County Commissioners therefore the area of Mulvane is already addressed in terms of membership. We will visit with them in order to identify what is there 20 year growth boundary and if that is exceeding into unincorporated parts of Sumner County yes we will be working with them.

GAROFALO The interpretation of federal law does not mean we have to include Sumner County?

MEHTA If the planning boundary is significantly going into unincorporated parts of Sumner county, yes, we will work with them and ask them what is that area that they feel that Mulvane will grow further into unincorporated Sumner County; if that is not significant I think they are locked in by railroad tracks, the river, and the highways and there is not future growth in that directions then Mulvane is for the most part considered Sedgwick County do we really want to add membership for that part of Mulvane which is about 1,000 population versus 3,000-4,000 in Sedgwick County.

GAROFALO You are asking the Planning Commission to recommend retaining the MPO as currently constituted but to add representatives from the new urbanized areas and add elected officials from the new areas to the CCT?

MEHTA We want directions from this body so that we can continue working along those lines of assuming the current MPO designation stays as is and we are merely expanding the area and therefore expanding the membership. We are

taking this from the point made by City Council 10-11 days ago. They have already spoken in terms of the re-designation portion. Officially it is these three groups the State 75% of the population, which is basically Sedgwick County and Center City - which is Wichita. One of them has spoken against the re-designation.

GAROFALO The County hasn't taken any official action? Are they going to?

MEHTA We never intended to take it separately to the governing bodies it was voluntarily by the WCC to take a position and put it on their agenda.

BARFIELD You indicated that some of the counties had the option to opt out. Have any of them expressed the desire to do that?

MEHTA Only areas which are outside of that census bureau urbanized area can opt out if they don't want to be a part of the planning area but that area which is defined in that red line which the census bureau had earlier identified is the minimum urbanized area they are in and they have to be considered part of the MPO. We have yet to approach folks in Butler County and Sumner County if they would determine what is that planning boundary outside of Andover, outside of Mulvane do they even want to be considered part of this action or not.

WARREN In the eyes of the federal government we can change and include these new members but it is not mandated? Now in the eyes of the City now they have come along and said that they want to make a change to include?

MEHTA The City of Wichita is saying don't make any changes in terms of the designation. There is no choice in terms of should we or should we not add Andover onto this body. That has to happen and there is no argument on any side regarding representation from areas around Andover and Mulvane. The question is should this body the Planning Commission continue to be the MPO as it has been for so many years or should there be another body which includes significant number of elected officials.

WARREN It would be a boring committee, if you formed a separate committee, and I don't see why we should do that. I would say let's leave everything the way that it is.

ANDERSON MPO must decide if adding representation from Butler County can be achieved without MPO re-designation, when do we have to answer that question?

MEHTA Because federal law says you review and then you decide. You don't have to decide today.

HENTZEN The City has already recommended that they recommend that we go along with this and leave things the way that it is.

WARREN As it stands right now we can change our hats from MAPC to MPO without ever adjourning. If we add people from Butler or Sumner County then we will have to adjourn and reform as an MPO?

MILLER Technically when you go from MAPC to MPO you are ceasing to be MAPC and becoming MPO; the only difference under what is proposed is that when you take action as an MPO then we as staff would need to get the representatives from Butler or Sumner County here to participated in that particular portion of discussion.

STEVE LACKEY, CITY PUBLIC WORKS, DIRECTOR The intent of the Law is to bring all modes of transportation together to the table to discuss transportation issues and also to bring representatives from the communities to decide how they want to spend the federal funds and if it is accordance with federal law. The way that you have been structured for the last 30 or 40 years, you have technical staff involved from all modes of transportation, transit, highway, airport, and then you also mix in elected officials at the coordinating committee level and then you all represent all of the different players within this urban planning area and in this case we will have to add some to make it work. My position is, rather than creating whole new board, eliminating you from the process and restructuring a whole new process with elected officials, to me seems like another layer that is not necessary when the current system has worked over, and over, again.

BARFIELD Did you have opportunity to speak to the WCC?

LACKEY I spoke with the City Manager and he spoke with the Council.

WARREN So what you envision is just adopting two or three members and they will be called in when the MPO issues come up.

LACKEY Yes.

JIM WEBER, DIRECTOR OF COUNTY PUBLIC WORKS, We do support the concept of retaining the MPO and adding whatever members are appropriate from the new areas into the system.

THOMAS DOW, URBAN PLANNING MANAGER WITH KDOT Mainly I want to answer any questions for you. I think it is important that you keep in mind what your role is as an MPO. As an MPO you are responsible for making final decision on MPO matters, you are not advisory to any elected boards in this processes. I wanted to stress that because I haven't had the opportunity to meet with this body before. I think the decisions that you are going to have to address are what will

the Metropolitan Planning boundary need to be because of the expansion of the census urbanized boundary and the decision will need to be made jointly by the MPO and by KDOT as the Governor's designee. Once that decision is made we are going to have to determine if we can expand the membership of this existing board if we can accommodate the expanded political jurisdiction that need to be included or not. I don't think that at this point KDOT as the Governor's representative in this matter is ready to say how that should be accomplished or not but I think that it is important to keep in mind that currently only two political jurisdiction appoint members to this board and that is The City of Wichita and The Sedgwick County and there are a number of political jurisdictions, the smaller cities in the regions plus now these two additional counties that I don't know how they feel about this matter. I would hope that before a final decision is made that we at least have a dialogue with those other jurisdiction to make sure that there is some consensus on that matter.

GAROFALO It says that KDOT is recommending that the MPO explore the option of re-designation.

DOWS Right, we don't have a formal position, we believe that re-designation must occur at this point. At this point I haven't even had an opportunity to meet with our new Secretary of Transportation to discuss the matter although since this matter has come up before this board now I do have a meeting scheduled with her for next week so I can begin talking with and see what her view is.

GAROFALO If we take the action recommended by the staff then it will eliminate the option of exploring the re-designation?

DOWS I guess since the MPO and KDOT is the Governor's designee has to agree and if we disagree then we would be at an impasse and there wouldn't be a re-designation until that was resolved. Because the existing MPO remains in effect until re-designation occurs and we will have to agree for that to change.

GAROFALO So you are saying we take this action today and KDOT and Governor don't agree, where are we then?

DOWS This body will remain the MPO for the interim period. The Governor or KDOT can't just revoke the MPO's designation unilaterally. We are just saying you need to explore the idea.

BISHOP As I recall at one point we had a conference call from the Department of Transportation that we need to agree with all level of governments. Is there anything from KDOT perspective that would create a black mark any where in terms of the flow of federal dollars if we are somewhat inaccurate in Sedgwick County and in this area utilizing a system that has served us well is there anything that is driving lack of agreement?

DOW The sub allocated STP funds that come to the region are going to continue to come to the region regardless of any consideration for re-designation or just expanding the current membership of the MAPC to include those additional jurisdictions. The big change would be the City of Andover and the City of Mulvane would become eligible to access to funds so they may have some disagreement as to whether or not they should have direct representation on the policy board or not.

WARREN I am concerned about your statement that so far the representation is Wichita and Sedgwick County and not for smaller communities out in there and I would like to respectively correct that. Sedgwick County members do often come from those smaller communities, my case, Derby, we have Haysville represented here and by and large we have other cities quite often represented on the MPO that you now have.

DOW I understand that, the only concern that I have what would happen in a situation where Sedgwick County's interest diverged from those of the smaller cities. I don't know how that would play out and I suppose it would depend on who the Sedgwick County representative is at that time.

MILLER What he is trying to say is that we will continue, the MAPC will continue as the MPO until there is a specific decision that says that we have to re-designate but there is not requirement to re-designate, so if MAPC decides to continue as MPO and continue the way that you have been even if other people disagree with that we will continue on being the MPO but should there be a decision that the three groups decide that it should be re-designated it takes all three groups to do that.

JEFF BRIDGES, City Administrator for the City of Andover We are not here to request one way or the other but at this point we would like an opportunity to review the options available to the MPO whether it be re-designated or not but before a final decision is made we would like to have the opportunity to review the information and possibly make a recommendation back to this body or to Wichita or Sedgwick County regarding what we believe to be the proper way for Andover to be involved in this process.

MOTION: To continue to work with our current MPO structure, utilizing the MAPC and also to investigate the expansion of our membership to Butler County and Sumner County.

ANDERSON moved, **COULTER** seconded the motion, and it carried (9-0).

The Metropolitan Area Planning Department informally adjourned at 3:15 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, Dale Miller, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2003.

Dale Miller, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)